

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ELROY W. BROWNING,

Plaintiff,

v.

JEANNE WOODFORD, et al.,

Defendants.

CASE NO. 1:05-CV-00342-AWI-LJO-P

ORDER DENYING REQUEST FOR ENTRY  
OF DEFAULT

(Doc. 31)

On January 10, 2006, plaintiff Browning filed a request for the entry of default against defendants Castro and Jackson. Entry of default is appropriate as to any party against whom a judgment for affirmative relief is sought that has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure and where that fact is made to appear by affidavit or otherwise. Fed. R. Civ. P. 55(a). There is no evidence in the record that defendants Castro and Jackson either waived service or were personally served and then failed to make a timely appearance.<sup>1</sup> Accordingly, plaintiff's request for entry of default is HEREBY DENIED.

IT IS SO ORDERED.

**Dated: January 12, 2006**  
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/s/ Lawrence J. O'Neill  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> The Marshal was unable to locate defendant Castro and returned the service documents to the court. (Doc. 26.) The court will address this issue once the status of service on defendant Jackson is made known to the court by the Marshal.